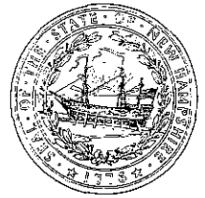




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Herbert J. Sauve
4 Sherwood Drive
Westford, MA 01886

Re: Tax Map 50, Lot 15 Block 1
Tuftonboro, New Hampshire

WITHDRAWAL

of
Notice of Proposed License Action
No. 04-002

April 20, 2004

I. INTRODUCTION

This Withdrawal of Notice of Proposed License Action No. 04-002 is issued by the Department of Environmental Services ("DES") in order to nullify the license action that was initiated by the issuance of Notice of Proposed License Action No. 04-002 dated March 5, 2004.

II. SUMMARY OF RELEVANT FACTS

1. DES issued Wetlands and Non-Spate Specific Permit No. 2003-01620 ("Permit") to Herbert Sauve to allow installation of a seasonal dock at Mr. Sauve's property in Tuftonboro, NH.
2. In response to a request for reconsideration filed by an abutter, by decision dated October 13, 2003 (copy attached and incorporated herein), DES found, *inter alia*, that Mr. Sauve had not accurately depicted the shoreline frontage on which the seasonal dock was to be placed and so "approved the request for reconsideration of the [Permit]."
3. By agreeing with the abutter's request for reconsideration, DES nullified its prior action of issuing the Permit. Because the Permit has been nullified, it was unnecessary for a license action to have been initiated.

III. WITHDRAWAL OF PROPOSED LICENSE ACTION

1. DES hereby withdraws Notice of Proposed License Action No. 04-002.

COPY
Harry E. Stewart, P.E., Director
Water Division

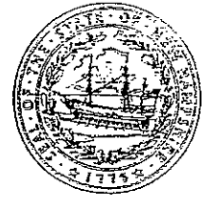
cc: Board of Selectmen, Town of Tuftonboro
Erskine Family Trust
John and Claire Batley
Carolyn W. Baldwin
James J. Bianco, Jr.

Michael J. Walls, Assistant Commissioner
Gretchen Rule Hamel, Legal Unit Adm.
Rene Pelletier, Manager, LRM Programs
Collis Adams, Wetlands Bureau Adm.
Mary Ann Tilton, Wetlands Bureau



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2147 FAX (603) 271-6588



October 13, 2003

Elizabeth Mudgett, Trustee
Erskine Family Trust
Po Box 335
Mirror Lake, NH 03853

RE: Herbert Sauve - File #2003-01620 - Tuftonboro

Dear Ms. Mudgett:

The Department of Environmental Services (DES) has approved the request for reconsideration of the above referenced permit to install a 4 ft x 20 ft seasonal dock on an average of 30 ft of frontage on property owned by Herbert Sauve located at Tuftonboro Neck on, Lake Winnepesaukee in Tuftonboro.

The decision to approve this application was based on the following findings:

Standards for Approval

1. In accordance with RSA 482-A:3, Excavating and Dredging Permits, "[n]o person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp, or in an adjacent to any waters of the state without a permit from the department."
2. In accordance with RSA 482-A:10,I, Appeals, "[a]ny person aggrieved by a decision made by the department under RSA 482-A:3...may apply for reconsideration by the department, and then may appeal to the wetlands council and to the superior court as provided in this section. A person aggrieved under this section shall include without limitation, the applicant and any person required to be noticed by mail in accordance with RSA 482-A:8 and RSA 482-A:9."
3. In accordance with Rule Wt 101.02, "Abutter means any person who owns property immediately adjacent and contiguous to the property on which the project will take place."
4. In accordance with Rule Wt 402.13, Frontage Less Than 75 ft, docks, or piers shall be no larger than 4 x 24 feet."
5. In accordance with Rule Wt 505.01,(h), Application Completeness Requirements, "[a]s part of the expedited minimum impact application,... the applicant shall provide the department with...[a]n accurate drawing with detailed dimensions clearly annotated to document existing site conditions and to show the impact of the proposed activity on areas in the department jurisdiction detailing the precise location of the project."
6. This project is classified as a minimum impact project per Rule 303.04(a), construction of a 2-slip seasonal dock.

Findings of Fact

7. The Appellant requesting reconsideration is a contiguous abutter.
8. The Applicant has an average of 30 ft of frontage on Lake Winnepesaukee.
9. The proposed seasonal docking facility meets the dimensions allowed on the frontage per Rule Wt 402.13.
10. The plans submitted illustrate that the shoreline is straight.
11. The photographs submitted depict an open frontage with no indication of bank slope.
12. The Appellant maintains that the plans submitted do not accurately depict the frontage.
13. The Appellant maintains that the photographs submitted show the wrong shoreline frontage.

14. The Appellant maintains that the bank is excessively steep and the Applicant has not explained how to access the proposed dock without worsening the existing erosion problem.
15. DES personnel conducted a site inspection on October 3, 2003. The inspection revealed that the photographs and plans did not accurately depict the frontage.
16. The Applicant did not address the erosion problems associated with accessing the site.

Rulings in Support of the Decision

17. The Applicant has failed to submit an accurate drawing showing the precise location of the project and the existing site conditions as required per Rule Wt 505.01(h).
18. The Applicant has failed to submit photographs which clearly show the area to be impacted as required per Rule Wt 505.01(i).
19. The Appellant has properly documented errors in the plans and photographs submitted, and therefore the Wetlands Bureau approves the reconsideration.

Please note that an appeal of this decision may be filed with the Wetlands Council in accordance with RSA 482-A:10, IV within 30 days of the Department's decision. Filing of the appeal must be made by certified mail to Brian Fowler, Chairman, Wetlands Council, PO Box 95, Concord, NH 03302-0095. The appeal must contain a detailed description of the land involved in the Department's decision, and must set forth every ground upon which it is claimed that the Department's decision is unlawful or unreasonable.

Sincerely,

Jared A. Teutsch
Wetlands Inspector
DES Wetlands Bureau

JAT/jeh

cc: Tuftonboro Conservation Commission
Tuftonboro Board of Selectmen/Town Clerk
Herbert Sauve
Winnepesaukee Marine Const